

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGE LIMITED and
BUNGE CHICAGO, INC.,

Plaintiffs,

No.

COMPLAINT

BUNGECHICAGO.COM

Defendant

Plaintiffs state:

1. This is an action for cybersquatting pursuant to 15 U.S.C. § 1125(d).

Parties

2. Plaintiff Bunge Limited is a leading agribusiness and food company with integrated operations that circle the globe. Its corporate headquarters is located at 50 Main Street, White Plains, New York, NY 10606.

3. Plaintiff Bunge Chicago, Inc., an indirect wholly owned subsidiary of Bunge Limited, is a registered clearing member of the CME Group. It manages the execution and clearing of commodities futures and options activities for Bunge Limited. It is a Delaware corporation, registered to conduct business in Illinois, with its principal place of business located

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1 in the Chicago Board of Trade Building at 141 West Jackson Blvd., Chicago, Illinois 60604.
2 (Plaintiffs Bunge Limited and Bunge Chicago, Inc. will be referred to collectively as "Bunge.")

3 4. "Bungechicago.com" is a domain name used for an Internet website located at
4 www.bungechicago.com. The bungechicago.com domain name (the "Subject Domain") was
5 issued by eNOM, Inc. ("eNom") an ICANN-authorized domain name registrar with its principal
6 place of business at 5808 Lake Washington Blvd. NE, Suite 300, Kirkland, WA 98033.

7 **Jurisdiction**

8 5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (federal
9 question), 1338 (trademark and related unfair competition), and 15 U.S.C. § 1125(d)
10 (anticybersquatting).

11 **Venue**

12 6. Venue is proper in this Court under 15 U.S.C. § 1125(d)(2)(A) and 28 U.S.C.
13 § 1391(b) (1) & (2) because this is an action for cybersquatting. The domain name registrar,
14 eNom, Inc., is located in this district, and the domain name registration, which gives rise to this
15 claim, occurred in this district. Additionally, the Subject Domain is located in this judicial
16 district because the domain name registrar for the Subject Domain, eNom, Inc., is located in this
17 judicial district.

18 **Bunge and Its Trademarks**

19 7. Bunge Limited owns various federal trademark registrations, including the
20 following registrations covering "trade financing, commodities management, credit, and risk
21 management analysis and consultation services":

22
23
24
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1 Trademark	2 Goods & Services
2 BUNGE	3 U.S. Reg. No. 2,785, 963
3 	4 U.S. Reg. No.2,682,681

5. As a result of Bunge Limited's sales and advertising over many years and the
 6. prominence of its business, these marks have become nationally famous and highly respected,
 7. and are accordingly entitled to broad protection against infringement.

8. Additionally, Bunge Limited has numerous subsidiaries throughout the world,
 9. including Bunge Chicago, Inc.

10. Consumers in commodities and commodities future markets recognize the
 11. BUNGE marks as a source identifier pointing uniquely and unmistakably to Bunge.

12. **The Subject Domain**

13. The Subject Domain was registered with eNom by an individual using the name
 14. "Jefferson Lautner" on January 4, 2013, based upon eNom's WHOIS records. The WHOIS
 15. record maintained and published by eNom for the Subject Domain provides the following
 16. information:

17. Administrative:
 18. Bunge Chicago Inc.
 19. Jefferson Lautner
 20. Chicago
 21. Chicago, IL 60603 US
 22. +1.13124651159

23. Technical:
 24. Bunge Chicago Inc.
 25. Jefferson Lautner
 26. Chicago
 27. Chicago, IL 60603 US
 28. +1.13124651159

29. Nameserver:

1 NS1.WEBHOSTINGPHILIPPINES.PH
2 NS2.WEBHOSTINGPHILIPPINES.PH

3 Updated-Date:
4 Jan 04, 2013 01:35:42 PM

5 Created-Date:
6 Jan 04, 2013 01:35:41 PM

7 Registration-Expiration-Date:
8 Jan 04, 2014 01:35:41 PM

9 Status:
10 registrar-lock

11 Domain:
12 bungechicago.com

13 bungechicago.com is a domain name registered by Jefferson Lautner. The site is based in
14 Chicago, IL, US. This domain has registrar lock enabled. www.bungechicago.com hosts
15 its domain on
16 NS1.WEBHOSTINGPHILIPPINES.PH,NS2.WEBHOSTINGPHILIPPINES.PH.

17 The registrant's whois information is not masked from appearing in our whois lookup
18 data. For additional information about www.bungechicago.com, users are encouraged to
19 email Jefferson Lautner or call +1.13124651159 for items pertaining to the registrant. For
20 administrative issues, please email Jefferson Lautner or call +1.13124651159. Items of a
technical nature should be directed to Jefferson Lautner via email or by calling
+1.13124651159.

15 The Infringing Website

16 12. A website has been posted on the Internet, using the Subject Domain, since at
17 least March 14, 2013. This website (the "Infringing Website") purports to describe and advertise
18 a company known as "Bunge Chicago Inc.," which it portrays as a "full service commodity
19 futures financial advisor, discount commodities financial advisor, online trading futures,
20 managed futures and options financial advisory firm."

21 Infringing Website's Use of Bunge Trademarks

22 13. The Infringing Website prominently uses the BUNGE mark throughout the
23 website "BungeChicago.com," including prominent use in the headings on all of its pages, as
24 illustrated by the following home page screen shot:

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14. The Infringing Website uses a “lined globe” design in the middle of its BUNGE
 15. CHICAGO page headings. This design is generally similar to the lined globe design that is a
 16. prominent feature of Bunge Limited’s design mark, as the following comparison shows:



17. Infringing Website's Logo



18. Bunge's Logo

19. Lack of Authorization by Bunge

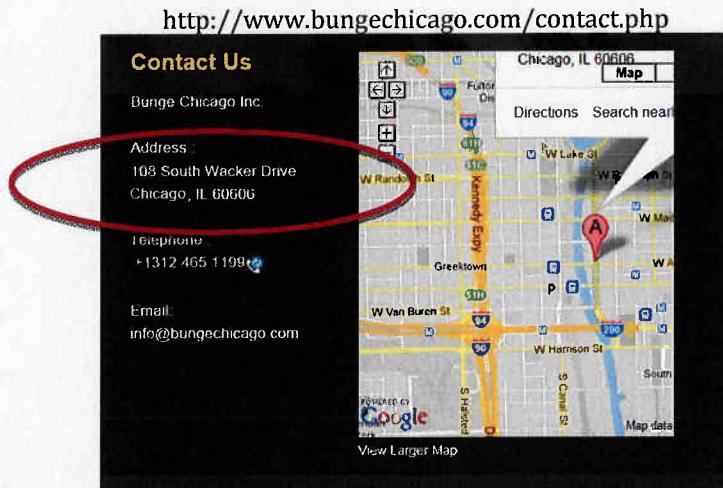
20. 15. Neither Bunge Limited nor Bunge Chicago, Inc. authorized the use of any of their
 21. names or trademarks, or the lined globe design mark, on the Infringing Website.

22. 16. Bunge Chicago, Inc., has nothing to do with the Infringing Website. The business
 23. of Bunge Chicago, Inc. – the real company – is *not* that of a retail commodities futures broker,
 24. but rather is the management of the execution and clearing of commodities futures and options
 25. activities for Bunge Limited.

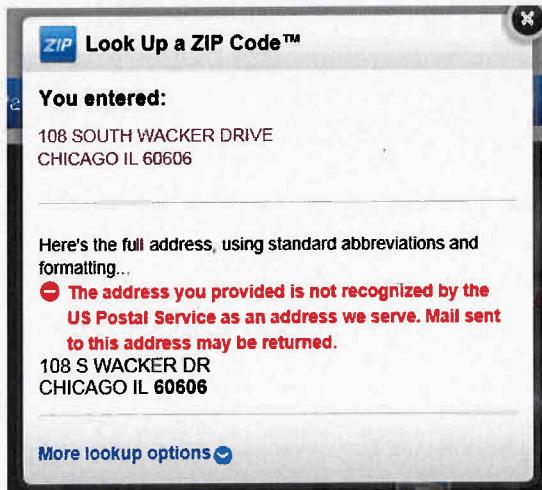
False and Missing Information Regarding Persons Behind Subject Domain and Infringing Website

17. The infringing website lists as its address "108 South Wacker Drive." This presents as an impressive address to persons interested in commodities futures, because the Chicago Mercantile Exchange, the world's largest commodities marketplace, is located at 20 South Wacker Drive in Chicago. In fact, however, no building is located at 108 South Wacker Drive in Chicago.

18. The false address is not a typographical error. It is listed in multiple places on the Infringing Website, as the screenshots below show.



1 19. Bunge's representatives have attempted to visit the office listed on the Infringing
 2 Website but have been unable to do so because the address does not exist. The United States
 3 Postal Service website, usps.com, also verifies that the address does not exist:



11 20. Bunge and its representatives have attempted to contact the operators of the
 12 Infringing Website by email. They have sent emails to the email address on the website
 13 (info@bungechicago.com) and the listed email on the WHOIS registration
 14 (j.lautner700@gmail.com). Specifically, attorneys for Bunge sent emails to those email
 15 addresses on March 15, 2013 and March 19, 2013. Copies of those emails (including their PDF
 16 attachments) are attached here to as Exhibits A and B respectively. No responses have been
 17 received from those email accounts or from anyone representing the Subject Domain, the
 18 Infringing Website, or Jefferson Lautner.

19 21. Bunge and/or its representatives have also called the telephone number listed on
 20 the website, and associated with the Subject Domain on WHOIS records, +1 312 465 1199, but
 21 this number has gone unanswered when representatives of Bunge have called recently. Real
 22 commodities trading firms are known to answer their telephones.

22. Bunge's representatives have checked the corporation registrations of the Illinois Secretary of State, and have found that it contains no listing corresponding to the purported "Bunge Chicago Inc." described on the Infringing Website. The only listing of a "Bunge Chicago, Inc." with the Illinois Secretary of State corporations division is for the real Bunge Chicago, Inc., one of the plaintiffs herein.

23. Bunge has also conducted searches for "Jefferson Lautner," the person identified as the administrative and technical contact for the Subject Domain, but has been unable to locate any such person.

24. After making customary and reasonable efforts, Bunge has not been able to find a person who would have been a defendant in an *in personam* civil action under section 1 of the ACPA, 15 U.S.C. § 1125(d)(1).

Cybersquatting Elements

25. The persons who registered the Subject Domain, who are using it or have authorized others to use it on the Infringing Website, have engaged in cyberpiracy in violation of 15 U.S.C. § 1125(d).

26. Those persons have registered and used the Subject Domain.

27. The Subject Domain is identical or confusingly similar to Bunge Limited's BUNGE trademark, a registered trademark that was distinctive at the time of registration of the Subject Domain. The Subject Domain is also identical or confusingly similar to "Bunge Chicago, Inc.," the trade name of plaintiff Bunge Chicago, Inc., which was also distinctive at the time of registration of the Subject Domain. Additionally the BUNGE mark is famous in the agricultural business sector and is associated with commodities futures because of Bunge Limited's known large position in agricultural commodities.

1 28. The Subject Domain was registered in bad faith with intent to profit from Bunge
2 Limited's trademarks and/or Bunge Chicago, Inc.'s trade name.

3 29. The following facts and circumstances, among others, show that the Subject
4 Domain was registered in bad faith with intent to profit from Bunge's trademarks.

5 a. Bunge Limited alone has recognized trademark rights in the word
6 “BUNGE” in the United States, for agricultural commodities and related lines of
7 business. Bunge Chicago Inc. alone has rights to the trade name “Bunge Chicago,
8 Inc.” in Illinois, or anywhere in association with commodities futures and options
9 activities.

10 b. The Subject Domain does not consist of the ordinary name of the persons
11 or business who registered it. In fact, the name “Bunge Chicago Inc.” is the name of
12 plaintiff Bunge Chicago, Inc., *not* the name of the registrant of the Subject Domain.

13 c. No persons or entities other than Bunge Limited and Bunge Chicago Inc.
14 have used or been authorized to use the name “Bunge Chicago” in the past in
15 connection with agricultural products or commodities, to the best of Bunge's
16 knowledge.

17 d. The Subject Domain is not used in a noncommercial or fair use sense.
18 Rather, the Infringing Website shows that the posters of the website are attempting to
19 pass themselves off as an entity related to Bunge.

20 e. Because of the Infringing Website's prominent use of the famous
21 trademark BUNGE, and because of its use of the lined globe design – similar to that
22 contained on Bunge Limited's registered trademark No. 2,682,681 – it is clear that the

1 owners of the Subject Domain are attempting to direct consumers who are looking for
2 Bunge, or who respect the BUNGE name and reputation, to the Infringing Website.

3 f. The information provided by the registrant of the Subject Domain to the
4 registrar includes false contact information, as follows:

5 i. The address provided to the registrar and listed on the WHOIS records,
6 “Chicago, Illinois 69603,” is deliberately vague, and if taken to correspond
7 to the address on the Infringing Website (108 South Wacker Drive,
8 Chicago, IL 60606), false.

9 ii. The name of the registrant, Jefferson Lautner, appears to be false.

10 30. Because Bunge, through due diligence, has not been able to find a person who
11 would have been a defendant in a civil action under paragraph 1 of the ACPA, 15 U.S.C. §
12 1125(d)(1), this *in rem* action against the Infringing Website under 15 U.S.C. § 1125(d)(2) was
13 necessary and appropriate.

14 Discovery to Be Sought

15 31. In order to facilitate the fullest possible resolution of this matter, Bunge will seek
16 immediate discovery from eNom with respect to its records and communications pertaining to
17 the registrants of the Subject Domain. Such discovery may enable the responsible parties to be
18 identified, notified of this action, and brought before this Court to answer to the claims herein.

19 32. Additionally, identification of the responsible parties in discovery will permit
20 Bunge to seek against the registrant of the Subject Domain and the perpetrators of the Infringing
21 Website the full remedies prescribed by the Anticybersquatting Consumer Protection Act, and
22 the Lanham Act, including but not limited to claims for lost profit and unjust enrichment
23 damages under 15 U.S.C. § 1117(a), claims for injunctive relief under 15 U.S.C. § 1116, and

1 claims for statutory damages pursuant to 15 U.S.C. 1117(d) (prescribing statutory damages for
2 cybersquatting in the amount of not less than \$1,000 and not more than \$100,000 per domain
3 name). The Anticybersquatting Consumer Protection Act specifically provides that in rem
4 proceedings like this one “shall be in addition to any other civil action or remedy otherwise
5 applicable” (15 U.S.C. §1125(d)(3)) and hence it is proper for discovery in this action to facilitate
6 such other claims.

7 **Equitable Considerations**

8 33. The Infringing Website seems intended to use Bunge’s trademarks to lure
9 customers to that website, who would then presumably seek to employ the fictitious “Bunge
10 Chicago Inc.” represented on the website as a commodities broker. Because the website portrays
11 a fictitious company, the obvious intent of luring customers would be to take their money and
12 run. If this happens, the “customer” will be victimized, and may blame Bunge for the fraud, not
13 understanding that the Infringing Website had no rights to use Bunge’s name and trademark.

14 Prompt action preventing further use of the Subject Domain on the Infringing Website may help
15 to prevent such harms to prospective victims of the website, and to Bunge.

16 34. The Anti-Cybersquatting Consumer Protection Act seeks to protect owners of
17 trademarks from improper and unauthorized use of their trademarks in domain names, by those
18 who register and use domain names including others’ trademarks in bad faith and with intent to
19 profit. Those purposes will be fulfilled by prompt action transferring the domain name
20 bungechicago.com from the current owners to Bunge.

21 **Prayer For Relief**

22 WHEREFORE, Bunge prays for judgment in its favor, and against the Subject Domain,
23 and specifically that the Court:

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1. Direct eNom, Inc. as registrar of the Subject Domain, to transfer the Subject
2. Domain to Bunge;

3. Maintain jurisdiction over this matter sufficient to allow any necessary follow up,
4. even after judgment herein, to Bunge's subpoenas to eNom, Inc., with respect to its records and
5. communications pertaining to the registrants of the Subject Domain.

6. Award Bunge such other and further relief as this Court deems just and proper.

7 DATED this 5th day of April, 2013.
8

9 s/ Michael A. Moore

10 s/ Sarah E. Tilstra

11 Michael A. Moore, WSBA No. 27047

12 Sarah E. Tilstra, WSBA No. 35706

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